REMARKS

In the Office Action dated May 17, 2006, claims 66-68 were removed from the elected claims and added to the non-elected group of claims. Accordingly, claims 66-68 are hereby cancelled. In order to make a restriction requirement, a showing that the claims are independent and distinct is required. While it appears that a statement or showing to the effect was inadvertently omitted in the last Office Action, since these claims were removed from the elected group of claims and added to the non-elected group of claims, it is presumed that claims 66-68 are independent and distinct from the elected group of claims. Therefore, Applicants respectfully request the Examiner to confirm that claims 66-68 are distinct and have acquired a separate status in the art from the elected group of claims.

Claims 1-16, 40-45, and 51-65 stand rejected under 35 USC 102(b) as anticipated, or in the alternative, under 35 USC 103(a) as obvious over Jernigan et al. and Ekart et al. Support for a continued rejection rests in column 8, line 5 et seq. of the Jernigan et al. patent in which the Examiner states as follows:

> ...patentees disclose that the I.V. of the precursor is generally about 0.7, which Applicants agree is about It.V. of about 0.74 which is clearly reads on 0.75. Patentees further disclose therein that the target I.V. is generally selected to balance good color and minimize the about of solid stating which is required, and further that, the preferred I.V. is from about 0.40 to about 1.2. It is the Examiner's position that characteristics not expressly disclosed would have been inherent in the prior art process or at least would have been obvious to one of ordinary skill in this art based on the disclosures of the cited prior art.

For the reasons which follow, Applicants submit that the claimed features are not disclosed by Jernigan et al. and that these features are not inherent in the disclosure of Jernigan et al.

In column 8, line 5 of Jernigan et al. it is stated that:

> Precursor I.V. is generally below about 0.7 to maintain good color. The target I.V. is generally selected to balance good color and minimize the amount of solid stating which is required. Preferably, the I.V. of a polyester in this invention is from about 0.40 dL/g to about 1.2 dL/g.

In this paragraph, Jernigan et al. explain that the precursor I.V. must stay below about 0.7 in order to maintain good color. Applicants do not agree that an It.V. of about 0.74 is the same of an It.V. of about 0.7. In fact, It.V. units of 0.01 are significant. This citation from Jernigan et al. does not disclose polycondensing to an It.V. as high as at least 0.75 dL/g as called for in claim 1 and 51.

This particular citation also teaches away from increasing the It.V. beyond 0.7 in order to avoid the negative impact on color obtained when the It.V. rises above 0.7. This reference recommends selecting an It.V. value below 0.70, the particular value chosen being one which maintains a balance between color and minimizing the amount of solid stating. Once solid stated, however, the It.V. of the polyester can range from 0.40 to 1.2 dL/g.

Thus, it can be seen from this passage that Jernigan et al. teach those of skill to polycondense to a particular It.V. below about 0.7 dL/g, and that particular It.V. selected should be one which both balances color and solid stating time, with the final It.V. upon solid stating ranging from 0.40 dL/g to about 1.2 dL/g. Since Jernigan et al. does not disclose a combination of the claimed b* color and polycondensing to an It.V. of at least 0.75 dL/g, it is submitted that Jernigan et al. does not anticipate claims 1-16 or 51-65.

It is also submitted that the claimed color range is not inherent in the disclosure of Jernigan et al. This reference itself supports a finding that the color range is not inherent. Jernigan et al. discloses that the color of the polyester polymer is impacted by the I.V. of the polyester polymer, giving rise to the teaching that the I.V. of the polyester polymer should stay below about 0.7 (e.g. in order to maintain good color). Not only is color impacted by the I.V. of the polymer polycondensed in the melt phase, but Jernigan et al. also teaches away from the present invention because the present invention calls for increasing the I.V. further above about 0.7 while maintaining the claimed color range.

None of the pending claims are anticipated or obvious over Ekart et al. for the same reasons noted in Applicant's last Response and above. Column 3, lines 59-65 teach against raising the I.V. of the polymer made in the melt phase polymerization to a value of 0.70 dL/g or more.

For these reasons, it is submitted that the teaching of Jernigan et al. and Ekart et al. do not anticipate the claimed invention, and those of ordinary skill in the art would not have found the claimed invention to be obvious over this teaching. Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the rejection in light of these observations.

Applicants also have the following observations to make. Neither one of the cited references disclose the process for melt phase polycondensing polyester polymer melt in the presence of an antimony catalyst at the claimed short reaction time of 100 minutes or less between an It.V. of 0.45 dL/g to an It.V. ranging from 0.70 dL/g to 0.90 dL/g. One of the advantages of the invention is that it is now possible to rapidly polycondense a polyester polymer to a high It.V. in the presence of an antimony based catalyst. This feature is not disclosed in the cited references as called for in claims 40-45.

The Examiner is invited to contact the undersigned with any question related to the further prosecution of this application.

Respectfully submitted,

Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662
Phone: (423) 229-6189
FAX: (423) 229-1239

Dennis V. Carmen
Registration No. 35,007
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Date

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

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Karen Taylor
Karen L. Taylor

6/27/2006
Date